ARTICLE APPEARED
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NEW YORK TIMES
21 August 1983

What Job Specifications Call for a War Criminal?

By STUART TAYLOR Jr.

WASHINGTON — United States intelligence agencies, like many others, have long operated outside the boundaries of ordinary law, pursuing national security by means ranging from deception to attempted assassination (now formally forbidden), in alliances with foreign dictators and on occasion with Mafia leaders and alleged war criminals. The scheme by which Army intelligence officers helped Klaus Barbie escape prosecution for war crimes in France, copiously documented by the Justice Department in a 218-page report last week, shows the extremes that have been resorted to in the fight against Soviet Communism, and the fine lines that must be drawn in passing judgment on them.

The report, by Allan A. Ryan Jr., also leaves lingering questions. Can the American intelligence officers who first recruited Mr. Barbie as a paid anti-Communist spy in 1947 be charged with knowledge that they were dealing with an alleged war criminal, relatively obscure then but now known widely as "the butcher of Lyons"?

Was the Barbie case highly unusual, or was it part of a pattern of alliances of convenience between American intelligence officers and alleged Nazi war criminals as the Cold War got under way? Mr. Ryan, whose five months investigating the Barbie case followed three years as head of a special unit seeking to deport Nazi war criminals from the United States, said he had found some use of former Nazis as informants but no other case resembling the protection of Mr. Barbie. But Elizabeth Holtzman, the Brooklyn District Attorney who as a member of Congress took a special interest in immigration matters and Nazi war criminals, asserted that this "is only one of many disturbing cases in which United States authorities aided suspected Nazi war criminals."

Such questions and contrasting perspectives reflect the difficulty of reconstructing events and assessing states of mind rather than apparent flaws in the Ryan report's meticulous and balanced summary of available evidence.

The report's central conclusion, which spurred the State Department to make a rare apology to another country, emerges irrefutably from the 600 pages of documents released with it. After learning in 1949 and 1950 that Mr. Barbie was wanted by the French for murder, torture and other war crimes, Army intelligence officers continued to use him as a paid informant in occupied Germany, hid him and finally smuggled him to South America in 1951.

The reasons for this course are reflected in documents such as a December 1950 memorandum to a superior from Captain Walter Unrath of the Army Counter Intelligence Corps in occupied Germany. While recommending that the Army disassociate itself from Mr. Barbie because of allegations that he had "tortured and killed many French patriots," Captain Unrath noted that sending him to stand trial in France would lead to the disclosure that "this unit has probably used the services of a war criminal and protected such person." Several other "unsavory 'personalities' that have been protected and employed" might also be exposed, and American intelligence secrets known to Mr. Barbie might fall into the hands of French Communists and their Soviet allies.

Riding 'the Rat Line'

With such concerns in mind, Army intelligence officers told their civilian counterparts falsely that they had lost contact with Mr. Barbie, and smuggled him out of Europe in early 1951 through an underground railroad for Soviet bloc defectors and informants dubbed "the rat line." It was operated by another unappealing figure, a Croatian priest who was described in one Army document as "a Fascist, war criminal, etc."

Mr. Barbie and his family sailed from Genoa to Argentina and made their way to Bolivia, where he prospered for 32 years, until a new Government expelled him in February to France. He now awaits trial for "crimes against humanity," including the murder of Jews and deportation of thousands to death camps. It was France to which the United States apologized.

While Mr. Ryan's report faults a half dozen Army officers for interfering "with the lawful and proper administration of justice" by shielding Mr. Barbie from the French, it also concludes that the initial decision in 1947 to use him as a spy, while subject to criticism, was "a defensible one" made by "conscientious and patriotic men faced with a difficult assignment." The latter conclusion hinges on two judgments. One is that those who recruited Mr. Barbie did not know he was wanted as a war criminal. The other is that the "legitimate and pressing need" for effective intelligence to counter the Communist threat in postwar Germany was at least a plausible justification for employing a man known to have been head of the Gestapo in Lyons.

Mr. Ryan, while taking pains not to judge the American handlers of Klaus Barbie too harshly, acknowledged that a more jaundiced eye than his might draw a less generous conclusion. He described the Gestapo as "the secret police whose weapons were terrorism, torture and death." And he disclosed that even a cursory check in 1947 would have revealed that Mr. Barbie was listed on a central Allied registry of war criminals as wanted in France for "murder."

These factors were outweighed, he concluded, by other documentary evidence indicating that neither American intelligence officers nor French officers who questioned Mr. Barbie several times while he was in American hands in 1948 and early 1949 had given much credence to the registry or had discussed him as a suspected war criminal before mid-1949 or 1950. Miss Holtzman, while stressing her "immense respect for Allan Ryan," said in an interview that "for me to accept that conclusion, I would have to believe either that these people were very unintelligent or that they wore the narrowest of blinders."